

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES PATTERSON,
Plaintiff,

v.

CORRECTIONS EMERGENCY
RESPONSE TEAM (CERT), *et al.*,
Defendants.

FILED

NOV 29 2018

CIVIL ACTION NO. 18-CV-4411

KATE BARNESMAN, Clerk
By: _____ Dep. Clerk

ORDER

AND NOW, this 28th day of November, 2018, upon consideration of Plaintiff James Patterson's Motion to Proceed *In Forma Pauperis*, (ECF No. 8), his Prisoner Trust Fund Account Statement (ECF No. 9), and his *pro se* Complaint (ECF No. 1), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED**.
2. Plaintiff James Patterson, LY-1105, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b). Based on the financial information provided by Patterson, an initial partial filing fee of \$86.89 is assessed. The Superintendent or other appropriate official at the SCI-Phoenix or at any other prison at which Patterson may be incarcerated is directed to deduct \$86.89 from Patterson's inmate trust fund account, when such funds become available, and forward that amount to the Clerk of the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA 19106, to be credited to Civil Action No. 18-4411. In each succeeding month when the amount in Patterson's inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Patterson's inmate trust fund account until the fees are paid. Each payment shall reference the docket number for this case, Civil Action No. 18-4411.

3. The Clerk of Court is directed to send a copy of this Order to the Superintendent of SCI-Phoenix.

4. The Complaint is **DEEMED** filed.

5. The Complaint is **DISMISSED without prejudice** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for the reasons stated in the Court's Memorandum.

6. Patterson is given leave to file an amended complaint within thirty (30) days of the date of this Order. If Patterson files an amended complaint, he must identify all of the defendants in the caption of the amended complaint. The amended complaint must also describe how each defendant was responsible for violating Patterson's rights, and should not rely on or refer back to the initial Complaint to state a claim. If Patterson cannot state a claim in light of the law set forth in the Court's Memorandum, he should not include that claim in his amended complaint. Upon the filing of an amended complaint, the Clerk of Court shall not make service until so **ORDERED**.

7. The Clerk of Court is **DIRECTED** to send Patterson a blank form complaint to be used by a prisoner filing a civil rights action. The Clerk of Court shall write the civil action number of this case on the form. Patterson may use this form to file an amended complaint if he chooses to do so.

8. If Patterson fails to file an amended complaint, his case may be dismissed without prejudice for failure to prosecute without further notice.

BY THE COURT:



PETRESE B. TUCKER, J.